

APPEAL NO. 022093
FILED SEPTEMBER 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 19, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and has not had disability. The claimant appeals, asserting that those determinations are against the great weight of the evidence. The respondent (carrier) replies, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. The issue of whether the claimant sustained a compensable injury was a question of fact for the hearing officer. Conflicting evidence was presented on this issue. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer noted that the claimant did not meet her burden of proving that there was an injury sustained as a result of the incident on _____. When reviewing a hearing officer's decision for factual sufficiency of the evidence, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no legal basis to overturn the hearing officer's factual finding regarding injury.

Given our affirmance of the hearing officer's injury determination, we likewise affirm his determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **UTICA MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RICHARD MAYER
11910 GREENVILLE AVENUE, SUITE 600
DALLAS, TEXAS 75243.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Veronica Lopez
Appeals Judge